

2. Pursuant to 28 U.S.C. § 1446(a), “copies of all process, pleadings, and orders that have been filed and served in the State Court Action” are attached hereto as Exhibit 1.

3. As of the date of filing of this Notice of Removal, Fidelitone has not been served with the complaint in the State Court Action, thus making removal timely and appropriate under 28 U.S.C. § 1446(b)(1).

4. In the Complaint for Declaratory Judgment, Plaintiff alleges that it issued certain commercial lines insurance policies to Fidelitone, effective December 1, 2015 to December 1, 2020. See as part of Ex. 1 (“Compl.”), ¶¶ 24-29).

5. The Plaintiff alleges that Fidelitone has been sued in the Circuit Court of DuPage County, Illinois, for alleged violations of the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et. seq.* (Compl., ¶¶ 6-23).

6. In Counts I through VII, the Plaintiff alleges that it owes no duty or obligation to defend or indemnify Fidelitone against the underlying BIPA pursuant to certain policy provisions contained in the commercial liability policies issued to Fidelitone. (Compl., ¶¶ 30-77).

7. Count VIII of the Complaint for Declaratory Judgment seeks recoupment of defense costs incurred defending Fidelitone against the underlying BIPA action (Compl., ¶¶ 78-82).

II. REMOVAL IS PROPER PURSUANT TO 28 U.S.C. §1332(a)

8. Removal is proper under 28 U.S.C. §§ 1332(a) and 1441 where there is complete diversity of citizenship between a plaintiff and a defendant, and the amount in controversy exceeds \$75,000. *Carroll v. Striker Corp.* 658 F.3d 675, 680-81 (7th Cir. 2011).

9. For purposes of diversity jurisdiction, a corporation is a citizen of the state in which it is incorporated and where it has its principal place of business. *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010). Fidelitone is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Wauconda, Illinois. Accordingly, Fidelitone is a citizen of Delaware and Illinois.

10. Plaintiff alleges in its Complaint that it is a corporation organized under the laws of Pennsylvania, with its principal place of business in Blue Bell, Pennsylvania. Accordingly, Plaintiff is a citizen of Pennsylvania (Compl., ¶ 1).

11. Plaintiff alleges in its Complaint that Locke is a citizen of Calumet Park, Cook County, Illinois. Accordingly, Locke is a citizen of Illinois.

12. Because the Defendants are citizens of Illinois, and the Plaintiff is a citizen of Pennsylvania, there is complete diversity of citizenship under 28 U.S.C. § 1332(a)(1).

13. As to the amount in controversy, Plaintiff seeks a declaration that it owes no duty to defend or indemnify Fidelitone against a putative class action complaint seeking damages pursuant to BIPA, which subjects private companies to potentially astronomical damage awards based on allowance of multiple or repeated accruals of claims by an individual. See, e.g., *Cothron v. White Castle System, Inc.*, 2023 IL 128004, ¶¶ 40-41 (class-wide damages could exceed \$17 billion).

14. Here, the total amount in controversy exceeds the jurisdictional limit of \$75,000.

III. VENUE AND NOTICE

15. Venue is proper in the Northern District of Illinois located in Chicago, Illinois, because the State Court action is pending within the jurisdictional confines of this Court.

16. Defendant will provide written notice of the filing of the Notice of Removal to Plaintiff and the Circuit Court of Cook County, Illinois.

WHEREFORE, the Defendant, Fidelitone, Inc., hereby removes this civil action to the United States District Court for the Northern District of Illinois, on the basis of diversity jurisdiction.

Dated: December 19, 2023

Respectfully submitted:

PRETZEL & STOUFFER, CHARTERED

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